IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 563 OF 2005

Shashikant Ramji Shah .. Applicant.

V/s.

The State of Maharashtra .. Respondent.

Shri Rishi Bhuta for the Applicant.
Shri K.V. Saste, APP for Respondent- State.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 10,2005.

PC :-

. Heard the learned counsel for the parties. Perused the record.

2. The argument canvassed by the applicant is that the role of the applicant was only to sign the loan papers and he has not received any pecuniary benefit; Whereas, the pay order was drawn in the name of Western Automative Enterprises with which the applicant has no concern. It is observed by the lower court in para 3 of the order that the co- accused Parag opened account in the same name and the amount was withdrawn.

3. There is substance in the submission canvassed by the applicant that he is not the beneficiary of the

defrauded amount but had only signed the documents under the bonafide belief of purchasing the car.

4. The concerned officer is present in the court. However, has not brought the record alongwith him to satisfy the court that the submission as canvassed by the applicant cannot be accepted. This matter was adjourned in the past to enable the public prosecutor to take instructions. I have been observing repeatedly that the officers who come to instruct the public prosecutor are expected to attend the court proceedings alongwith all the relevant record so as to effectively assist the public prosecutor, who in turn can make his submission for opposing the bail application. However, this is yet another case where the concerned investigating officer has come to the court in a casual manner, in civil dress and that too without any paper books. This cannot be countenanced.

5. For the reasons already recorded, I find substance in the submission of the applicant that his involvement was limited to signing loan papers. Hence, the applicant is directed to be released on bail in the present case on the following conditions :-

(a) Applicant is enlarged on bail in connection with C.R.No. 388/2004 registered with Boriwali Police Station on executing personal bond in the sum of Rs. 25,000/- (Rs. Twenty five thousand only) with two local sureties in the like amount.

(b) The applicant shall report to the concerned police station once in a month on first Saturday of every English calendar month between 10 a.m. to 2 p.m.

(c) The Applicants shall extend full co-operation for early disposal of the trial. If the trial court is of the opinion that they are responsible for delay in trial that fact be recorded in the Rozanama, which can be a ground for cancellation of bail.

(d) The Applicants shall not influence the prosecution witness or tamper with the prosecution evidence in any manner whatsoever.

6. Copy of this order be forwarded to the Principal Secretary, Home Department and Commissioner of Police, Mumbai for taking appropriate action against the concerned officer as may be advised in the

matter.

7. Ordered accordingly.

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